CHEAH CHENG HUAT v. AIG MALAYSIA INSURANCE BHD

HIGH COURT MALAYA, PULAU PINANG
KENNETH ST JAMES JC
[APPEAL NO: PA-12B-14-09-2022]
13 JULY 2023

Abstract – *The purpose behind the monetary limit under s. 28(1)(a) of the Courts of Judicature Act 1964 ('CJA') is to prohibit or reduce the number of appeals from the subordinate courts to the High Court. Since the phrase 'the amount in dispute or the value of the subject matter' under the said section if interpreted to relate to the amount as claimed in the statement of claim will not be capable of reducing the number of appeals from the subordinate courts because the prohibition will only be applicable to appeals from the Magistrates' Court, and will allow parties to an appeal against a subordinate court's decision to file their own respective appeals, which will be contrary to the purpose of s. 28(1)(a) of the CJA, the phrase is held to relate to the eventual judgment sum granted by the subordinate courts.*

CIVIL PROCEDURE: *Appeal – Competency – Appeal from Magistrates' Court to High Court – Decision appealed from involved judgment sum of RM3,050 – Whether appeal prohibited by monetary limit under s. 28(1)(a) of Courts of Judicature Act 1964 ('CJA') – Whether phrase 'the amount in dispute or the value of the subject matter' under s. 28(1)(a) of CJA related to eventual judgment sum granted by subordinate courts or amount as claimed in statement of claim – Whether appeal on question of law*

WORDS AND PHRASES: *'the amount in dispute or the value of the subject matter' – Courts of Judicature Act 1964, s. 28(1)(a) – Whether related to eventual judgment sum granted by subordinate courts or amount as claimed in statement of claim*

The appellant/plaintiff ('plaintiff') was the insured, while the defendant/respondent ('defendant') was the insurer. In 2012, after the plaintiff came back from his trips in Indonesia and Langkawi, he fell very ill. The plaintiff thereafter made several claims under his insurance policies he had bought from the defendant. However, the defendant denied the plaintiff's claims. The defendant's refusal prompted the plaintiff to file a suit in the Sessions Court for breach of contract ('suit'). In the plaintiff's statement of claim ('SOC'), the plaintiff claimed several unquantifiable damages (general, aggravated and exemplary damages) and quantifiable special damages, which in total amounted to over RM322,000 from the defendant. The Sessions Court, after hearing the suit, dismissed all of the plaintiff's claims except the judgment sum of RM3,050 ('Sessions Court's decision'). Aggrieved, the

plaintiff filed this appeal against the Sessions Court's decision. During the hearing of the appeal, the defendant raised a preliminary objection on the ground that the appeal was incompetent due to the reason that it was prohibited by the monetary limit as set out under s. 28(1)(a) of the Courts of Judicature Act 1964 ('CJA'). The said section prohibits an appeal from the subordinate courts to the High Court if 'the amount in dispute or the value of the subject matter' is RM10,000 or less, 'except on question of law'. Hence, the issues that arose in determining the appeal were: (i) whether the phrase 'the amount in dispute or the value of the subject matter' under s. 28(1)(a) of the CJA related to the judgment sum of RM3,050 granted by the Sessions Court to the plaintiff or to the amount of over RM322,000 as claimed in the plaintiff's SOC; and (ii) whether the plaintiff had satisfied the exception under s. 28(1)(a) of the CJA by raising a question of law for the determination of the appeal.

Held (dismissing appeal):

(1) The purpose of s. 28(1)(a) monetary limit was to prohibit and reduce the number of appeals from the subordinate courts to the High Court. For suits where the monetary claim does not exceed RM10,000, they would be filed in the Magistrates' Court, and not in the Sessions Court. Hence, if s. 28(1)(a) monetary limit was to be made related to the amount as claimed in the SOC, it would cause the court system to face an incongruous circumstance where only appeals from the Magistrates' Court would be prohibited, while appeals from the Sessions Court would not. If such was the case, s. 28(1)(a) would hardly achieve its purpose of reducing the number of appeals from the subordinate courts to the High Court. (paras 29-34)

(2) By relating s. 28(1)(a) monetary limit to the amount as claimed in the SOC, it would allow the said section to be abused and manipulated. This was because, better-advised plaintiffs would be able to endeavour by crafting their SOCs in such a way that prayed for an amount that exceeded RM10,000 in every suit. It would not matter to them whether their claims would be granted or not. They would just pray for an amount that exceeded RM10,000 to circumvent s. 28(1)(a) monetary limit on appeals. This manner of pleading would be geared towards getting around the said monetary limit, while at the same time retaining the right to appeal to the High Court, whatever might be the eventual judgment or outcome. And s. 28(1)(a) of the CJA would not be able to prohibit the appeals from such contrived claims. (paras 35-37)

(3) If s. 28(1)(a) monetary limit was related to the amount as claimed in the SOC, the better-advised plaintiffs could craft their SOCs by including prayers for unquantifiable amounts such as general, aggravated and

exemplary damages and non-monetary reliefs such as declaratory or injunctive relief. Such claims would be able to evade the operation of s. 28(1)(a) monetary relief on appeals from the subordinate courts to the High Court. If such was to happen, s. 28(1)(a) of the CJA would scarcely be allowed to achieve the purpose it was enacted for. (paras 38-40)

(4) A scrutiny of s. 28(1)(a) of the CJA revealed that, 'no appeal shall lie to the High Court', from 'a decision of a subordinate court', where 'the amount in dispute or the value of the subject matter' is RM10,000 or less. The 'amount in dispute or the value of the subject matter' does not refer to or relate to the amount as claimed in the SOC. The 'amount in dispute or the value of the subject matter' refers or relates to only the 'decision' of the subordinate courts, namely the judgment sum. Section 28(1)(a) of the CJA refers first to a 'decision' and then to 'the amount in dispute or the value of the subject matter', which compels the interpretation that 'the amount in dispute or the value of the subject matter' relates to the eventual judgment sum granted (the decision appealed from). (paras 41 & 42)

(5) There were three possible scenarios from the suit, *ie*, (i) the plaintiff's claim was dismissed; (ii) judgment was granted for an amount that was RM10,000 or less; or (iii) judgment was granted for an amount that was more than RM10,000. Analysis on these scenarios disclosed that if 'the amount in dispute or the value of the subject matter' was to be interpreted to relate to the amount as claimed in the SOC, and not to the eventual judgment sum granted, the monetary limit as set out under s. 28(1)(a) of the CJA would be ineffective to prohibit or reduce the number of appeals from the subordinate courts to the High Court. The same interpretation, in fact, would enable more appeals, since both the plaintiff and the defendant could file their own respective appeals against the Sessions Court's judgment, which would bring about outcomes that were contrary to the purpose behind the promulgation of s. 28(1)(a) monetary limit. Therefore, the meaning of the phrase 'the amount in dispute or the value of the subject matter' ought to be related to the eventual judgment sum granted by the subordinate courts, and not to the amount as claimed in the SOC. For these reasons, since the judgment sum granted was RM3,050, which was 'RM10,000 or less', the appeal was held to be incompetent unless the plaintiff could satisfy the court that the same was on the question of law. (paras 44 & 57-61)

(6) From the plaintiff's notice of appeal and memorandum of appeal ('MOA'), it was not stated that the plaintiff was appealing on a question of law, nor does it pose a question of law for the determination of the appeal. All the nine grounds of appeal as raised by the plaintiff in the MOA were related to questions of fact. Since the plaintiff had not

satisfied the exception under s. 28(1)(a) of the CJA, the appeal was not on a question of law. Therefore, the appeal was held to be prohibited by s. 28(1)(a) of the CJA, and was thus, incompetent. (paras 63-68 & 71)

Case(s) referred to:

Badan Pengurusan Bersama Kompleks Pandan Safari Lagoon v. Tam Cheng Meng [2018] 8 CLJ 361 HC ***(refd)***

KC Chan Brothers Development Sdn Bhd v. Tan Kon Seng & Ors [2001] 4 CLJ 659 HC ***(refd)***

Kolej Universiti Tunku Abdul Rahman v. Dr Muhammad Omar [2023] 1 CLJ 437 HC ***(refd)***

Lein Tiam Hock v. Arumugam Kandasamy [1999] 2 CLJ 853 HC ***(refd)***

Legislation referred to:

Courts of Judicature Act 1964, s. 28(1)(a)
Subordinate Courts Act 1948, ss. 65, 90

For the appellants/plaintiff - Hanis Nabila Rosli; M/s C P Ang & Co
For the respondent/defendant - Wong Wai Leong & Alvin Kua Tze Min; M/s Azim, Tunku Farik & Wong

[Editor's note: Appeal from Sessions Court; Suit No: PA-B53-9-11-2018 (affirmed).]

Reported by Syamim Ariffin

JUDGMENT

Kenneth St James JC:

Prelusion

[1] The appeal before me is a post-trial appeal from the Sessions Court. But at the hearing of the appeal, the respondent/defendant (D) raised a preliminary objection against the competency of the appeal.

[2] The defendant submits that s. 28(1)(a) of the Courts of Judicature Act 1964 (CJA) prohibits an appeal from the subordinate courts (the Sessions Court and the Magistrates' Court) when "the amount in dispute or the value of the subject matter" is RM10,000 or less, "except on a question of law".

[3] In the Sessions Court, the appellant/plaintiff (P) claimed the remedy of general, aggravated, exemplary, and quantifiable special damages that amounted to much more than RM10,000.

[4] The Sessions Court dismissed all of P's claims except for the sum of RM3,050 *ie*, the judgment sum granted to P against D was only RM3,050.

[5] If the preliminary objection is allowed, the appeal will be rendered incompetent and should be struck out. If, on the other hand, the preliminary objection is dismissed, the appeal will be heard and determined.

[6] Should D's preliminary objection be allowed?

Section 28(1)(a) Of The CJA

[7] Section 28(1)(a) of the CJA, as stated earlier, concerns appeals from the subordinate courts to the High Court.

[8] It is pertinent to note the very words of s. 28(1)(a) of the CJA:

> **Section 28. Civil appeals from subordinate courts.**
>
> (1) No appeal shall lie to the High Court in any of the following cases:
>
> (a) subject to any other written law, from a **decision** of a subordinate court in any civil cause or matter **where the amount in dispute or the value of the subject matter is ten thousand ringgit or less except on a question of law;** …
>
> NOTE –The original provision was "one hundred dollars" (Revised 1972).
>
> Previously "Five hundred ringgit" – see Act A279.
>
> Previously "Five thousand ringgit" – see Act A530.
>
> Now "ten thousand ringgit" – see Act A670.
>
> (emphasis added)

[9] I will refer to this current RM10,000 limit as "the s. 28(1)(a) monetary limit".

Background – The Sessions Court Suit

[10] In the Sessions Court suit, P sued D under several insurance policies that P purchased from D. P asserted that in 2012, as a result of his trips to Indonesia and Langkawi, he fell very ill. He made claims under his insurance policies. D denied his claims. He sued D for breach of contract.

[11] In his statement of claim, P claimed unquantifiable damages (general, aggravated and exemplary), as well as quantifiable special damages. The special damages, from my computation of the particulars that P provided, amounted to over RM322,000. So, the amount claimed far exceeded the s. 28(1)(a) monetary limit of RM10,000.

[12] In its defence, D asserted that P's claims were not covered by the policies. D asserted that:

(i) P was not in an accident or suffered an injury as defined in the policies;

(ii) P did not suffer any permanent injury;

(iii) P's illness was not contracted during his trips to Indonesia or Langkawi.

[13] The Sessions Court granted judgment to P in the amount of RM3,050. P appealed to the High Court.

A **The Meaning Of The Words "The Amount In Dispute Or The Value Of The Subject Matter" In s. 28(1)(a)**

[14] The pivotal question to answer is – what is the meaning of the words "the amount in dispute or the value of the subject matter" in s. 28(1)(a)?

B **[15]** On the one hand, there are case law authorities that opined that the s. 28(1)(a) monetary limit that prohibits an appeal must be related to the amount claimed in the statement of claim. I note here that if the claim is for an unquantifiable sum, the value of the subject matter of the suit has to be computed or determined.

C **[16]** One of the case law authorities which held that the s. 28(1)(a) monetary limit that prohibits an appeal is related to the amount claimed in the statement of claim is *Badan Pengurusan Bersama Kompleks Pandan Safari Lagoon v. Tam Cheng Meng* [2018] 8 CLJ 361; [2018] 8 MLJ 574; [2018] 3 AMR 597; [2018] MLRHU 394.

D **[17]** In *Badan Pengurusan Bersama Kompleks Pandan Safari Lagoon* (*supra*), Justice Faizah Jamaluddin JC (later J) reasoned that s. 28 does not specifically state "where the decision of the subordinate court is for a sum of RM10,000 or less". Instead, s. 28 states "where the value in dispute or the value of the subject matter is for a sum of RM10,000 or less". As such, E the s. 28(1)(a) monetary limit is related to the amount claimed, and not the amount of the judgment granted.

[18] In other words, s. 28(1)(a) only prohibits appeals where the amount claimed or the value of the subject matter set out in the statement of claim is RM10,000 or less.

F **[19]** On the other hand, there are case law authorities which decided that the s. 28(1)(a) monetary limit that prohibits an appeal must be related to the eventual judgment sum granted by the subordinate courts.

[20] The case law authorities which decided that the s. 28(1)(a) monetary G limit must be related to the eventual judgment sum granted by the subordinate courts, include:

(i) *Lein Tiam Hock v. Arumugam Kandasamy* [1999] 2 CLJ 853; [1999] 6 MLJ 129; [1999] 3 AMR 3670; [1999] 1 MLRH 406, per Justice Suriyadi J (later FCJ);

H (ii) *KC Chan Brothers Development Sdn Bhd v. Tan Kon Seng & Ors* [2001] 4 CLJ 659; [2001] 6 MLJ 636; [2001] 4 AMR 4533; [2001] 2 MLRH 267 per Justice Ramly Ali JC (later FCJ);

(iii) *Kolej Universiti Tunku Abdul Rahman v. Dr Muhammad Omar* [2023] I 1 CLJ 437; [2023] 7 MLJ 830; [2022] AMEJ 1996; [2023] 1 MLRH 508, per Justice Leong Wai Hong JC.

[21] In *Lein Tiam Hock* (*supra*), Justice Suriyadi reasoned it this way (at p. 857 (CLJ); pp. 133 to 134 (MLJ)): A

> … This provision [note: section 28(1)(a)] is plain and clear. To use the words of Mohamed Azmi SCJ in the case of *Tan Weng Chiang v. PP* [1992] 2 MLJ 625 at p 630:
>
> > Where the meaning of words in the statute is plain and unambiguous, judges should not invent fancy ambiguities. B
>
> Pursuing the tenets of interpretation, I am satisfied that *the amount in dispute, or the subject-matter provided for under s. 8, must relate to the decision of the subordinate court, and not to any sum claimed either by the plaintiff or the combined sum of the claim and counterclaim submitted by the defendant,* if any. C Apart from attaching weight or significance to that term 'decision', the provision of s. 8 must also be read as a whole.
>
> Indisputably, it is also beyond denial that the latter provision [note: section 28(1)(a)] does not have the terms of 'claim' or 'suit' …
>
> (emphasis added) D

[22] In other words, the words of s. 28 are clear, in that the s. 28(1)(a) monetary limit is related to the judgment sum granted, and not to the amount claimed in the statement of claim.

[23] Additionally, s. 28(1)(a) does not contain the words "claim" or "suit". E It does not say that "the amount in dispute or the value of the subject matter" is the amount in dispute or the value of the subject matter of the claim or the suit. The words "claim" or "suit" should not be read into s. 28(1)(a), when the Legislature did not place those words there.

[24] In *KC Chan Brothers Development* (*supra*), Justice Ramly Ali held as F follows (at pp. 662 to 664 (CLJ); p. 640, para. I; p. 641, para. A to B; p. 642, paras. A to C, D to E, G to H; p. 643, para. A to C (MLJ)):

> Factual background
>
> All the respondents/plaintiffs were house buyers for low cost houses built by the appellant/defendant … G
>
> For that purpose, all the respondents/plaintiffs had entered into their respective agreements with the appellant/defendant … All the respondents/plaintiffs filed their claims separately against the appellant/defendant in the Magistrate Court Temerloh, claiming for compensation on the ground that their houses were not built in accordance with the H specifications provided in the approved plans, which were part of the agreements. They claimed that the appellant/defendant had breached the agreements between them …
>
> At the end of the trial, the learned magistrate decided in favour of all the respondents/plaintiffs and found that the appellant/defendant was in I breach of the respective agreements. In respect of the single storey houses,

A the respective respondents/plaintiffs were *awarded* a sum of RM8,400 as compensation together with costs and interests (for each of them). While in respect of the double storey houses, each of the respective respondents/plaintiffs were *awarded* a sum of RM4,500 as compensation together with costs and interests.

B The appellant/defendant, not being satisfied with all the 26 decisions, appealed to this court against all the 26 decisions …

Whether the said decisions are appealable – s. 8(1) of the Courts of Judicature Act 1964;

It is not disputed that each and everyone of the 26 decisions involved award of less
C *than RM10,000.*

The amount in dispute or the value of the subject matter is less than RM10,000.

The appellate civil jurisdiction of the High Court in respect of appeals from subordinate courts is governed by ss. 7 and 28 of the Act …

D Section 28(1) of the Act provides:

> Subject to any other written law, no appeal shall lie to the High Court from a decision of a subordinate court in any civil cause or matter where the amount in dispute or the value of the subject matter is ten thousand ringgit or less except on a question of law.

E *For the purpose of s. 8(1) of Act, the amount in dispute or value of the subject matter shall not include interests and costs. It only refers to the main award …*

Thus, based on the above finding, *it is clear that the amount in dispute or the value of the subject matter in all the 26 appeals before this court is below RM10,000. It is also clear that by virtue of ss. 7 and 28(1) of the Act, the High Court has no*
F *jurisdiction to hear these appeals except on a question of law.* This is a question of jurisdiction which must be complied with strictly. It goes to the very core of the court's power in dealing with the appeal. Non-compliance with the provisions is fatal and would nullify the appeal. It is not a mere irregularity which can be cured by any other existing rules. It is a vital question to be determined and decided by the court at the beginning of
G the proceeding whether or not the respondent or any other party has raised it. The fact that the respondent does not raise the issue at the beginning of the proceeding does not mean that the court has the jurisdiction to hear the appeal even though the conditions set under s. 28(1) of the Act are not fulfilled. (emphasis added)

H **[25]** In other words, it was clear to Justice Ramly Ali that the s. 28(1)(a) monetary limit is related to the judgment sum awarded, and not to the amount claimed in the statement of claim. And this is a requirement that must be complied with before an appeal from the subordinate courts to the High Court can be heard.

I

[26] In *Kolej Universiti Tunku Abdul Rahman* (*supra*), Justice Leong Wai Hong, after reviewing the case law authorities that he found relevant, sets out his opinion thus:

> [40] Mercifully, the issue whether the meaning of the phrase 'the amount in dispute or the value of the subject matter' in s. 28(1) of the CJA refers to the adjudged sum or the sum claimed does not arise in this appeal as the adjudged sum and the sum claimed is the same *ie* RM3,000. On either interpretation the amount in dispute or the value of the subject matter is clearly below the threshold of ten thousand ringgit or less.
>
> [43] *Since the public policy purpose of the filter in s. 28(1) of the CJA is to prevent appeals on small sums from subordinate courts from clogging the High Courts* unless they concern a question of law, *it makes sense that the phrase 'the amount in dispute or the value of the subject matter' in s. 28(1) of the CJA refers to the adjudged sum and not the sum claimed.* Such an interpretation will also prevent a well-heeled litigant from oppressing the not so well-heeled litigant with further litigation costs on appeal that far exceeds the adjudged sum which will happen if the filter is not the adjudged sum. (emphasis added)

[27] In other words, even though the issue of whether the s. 28(1)(a) monetary limit did not arise in the appeal before him, he opined that as a matter of public policy, it "makes sense" that the s. 28(1)(a) monetary limit is related to the judgment sum and not the amount claimed.

Decision And The Reasons For It

[28] Having perused and considered the facts and circumstances of this Sessions Court suit, as well as these case law authorities on s. 28(1)(a), I am of the view that the s. 28(1)(a) monetary limit is related to the eventual judgment sum granted, rather than the amount of the claim stated in the statement of claim. My reasons are as follows.

[29] First, it is obvious that the purpose of the s. 28(1)(a) monetary limit is to prohibit appeals from the subordinate courts to the High Court by imposing a monetary limit. The objective is to reduce the number of appeals to the High Court.

[30] The civil suit monetary jurisdiction of the Magistrates' Court is RM100,000 – s. 90 of the Subordinate Courts Act 1948 (SCA). The civil suit monetary jurisdiction of the Sessions Court is RM1 million – s. 65 of the SCA.

[31] Therefore, suits where the monetary claim is RM10,000 or less, are filed in the Magistrates' Court, and not in the Sessions Court.

[32] So, if the s. 28(1)(a) monetary limit is related to the amount claimed in the statement of claim, only appeals from the Magistrates' Court will be prohibited by s. 28(1)(a). Sessions Court suits, where the amounts claimed exceed RM10,000, will not be similarly prohibited.

[33] If the s. 28(1)(a) monetary limit (RM10,000) is related to the amount claimed in the statement of claim, then the court system will have an incongruous circumstance where only appeals from the Magistrates' Court are prohibited by s. 28(1)(a). Appeals from the Sessions Court will not be likewise prohibited.

[34] Put differently, as only appeals from the Magistrates' Court are prohibited, only appeals from the Magistrates' Court will be reduced. Section 28(1)(a) will hardly achieve its purpose of reducing appeals from the subordinate courts.

[35] Second, if the s. 28(1)(a) monetary limit is related to the amount claimed in the statement of claim, then plaintiffs who are better-advised will endeavour to craft their statements of claim in such a way as to pray for an amount that exceeds RM10,000 in every suit. Plaintiffs will make such claims to avoid the application of the s. 28(1)(a) monetary limit. Section 28(1)(a) will be subject to manipulation and abuse.

[36] It does not matter to such plaintiffs whether they will be granted the claim for an amount that is more than RM10,000 or not. They will just pray for an amount that is more than RM10,000 to circumvent the s. 28(1)(a) monetary limit on appeals. This manner of pleading is geared towards getting around the s. 28(1)(a) monetary limit, so that they can retain the right to appeal to the High Court, whatever may be the eventual judgment or outcome.

[37] As a result, s. 28(1)(a) will not be able to prohibit the appeals from such contrived claims.

[38] Thirdly, if the s. 28(1)(a) monetary limit is related to the amount claimed in the statement of claim, then plaintiffs will also craft their statements of claim in such a way as to include unquantifiable amounts, such as general damages, and aggravated and exemplary damages, or for non-monetary reliefs such as declaratory relief or injunctive relief.

[39] Such claims will evade the operation of the s. 28(1)(a) monetary limit on appeals from the subordinate courts to the High Court.

[40] Section 28(1)(a) would then scarcely achieve the purpose that it was enacted to do.

[41] Fourthly, a scrutiny of s. 28(1)(a) reveals that it says: "no appeal shall lie to the High Court", from "a decision of a subordinate court", where "the amount in dispute or the value of the subject matter" is RM10,000 or less. The "amount in dispute or the value of the subject matter" does not refer to or relate to the claim. The "amount in dispute or the value of the subject matter" refers to or relates only to the "decision" of the subordinate court, namely the judgment sum.

[42] Section 28(1)(a) refers first to a "decision" and then to "the amount in dispute or the value of the subject matter", which compels the interpretation that "the amount in dispute or the value of the subject matter" relates to the eventual judgment sum granted (the decision appealed from).

[43] Fifthly, I analysed the possible outcomes or scenarios from this Sessions Court suit. P claims in his statement of claim the quantifiable amount of about RM322,000, in addition to unquantifiable general, aggravated and exemplary damages. The amount claimed far exceeds the s. 28(1)(a) monetary limit of RM10,000.

[44] The possible scenarios from the suit are:

(i) P's claim is dismissed; or

(ii) judgment is granted for an amount that is RM10,000 or less; or

(iii) judgment is granted for an amount that is more than RM10,000.

[45] In the first scenario, where P's claim is dismissed – if "the amount in dispute or the value of the subject matter" is interpreted to be related to the amount claimed in the statement of claim – the s. 28(1)(a) monetary limit would not prohibit P's appeal to the High Court, because the amount claimed in the statement of claim is for RM322,000 plus general, aggravated and exemplary damages, which is far more than RM10,000 *ie*, not "RM10,000 or less".

[46] On the other hand, if "the amount in dispute or the value of the subject matter" is interpreted to be related to the judgment sum, the s. 28(1)(a) monetary limit would prohibit P's appeal to the High Court, because the judgment sum (which is zero, since the claim was dismissed) is certainly "RM10,000 or less".

[47] In the second scenario, where judgment is granted for an amount that is "RM10,000 or less" (as it is here: RM3,050) – if "the amount in dispute or the value of the subject matter" is interpreted to be related to the amount claimed in the statement of claim – the s. 28(1)(a) monetary limit would not prohibit P from appealing to the High Court in any event, as the amount claimed is for RM322,000 plus general, aggravated and exemplary damages, which far exceeds RM10,000 *ie*, not "RM10,000 or less".

[48] Similarly, D can also appeal. The s. 28(1)(a) monetary limit would not prohibit D from appealing, since the amount claimed in the statement of claim is more than RM10,000.

[49] D can appeal for the claim to be dismissed entirely or for an amount that is even lower than the amount that the Sessions Court granted.

[50] On the other hand, however – if "the amount in dispute or the value of the subject matter" is interpreted to be related to the judgment sum – then the s. 28(1)(a) monetary limit would prohibit P's appeal to the High Court, since the judgment sum is "RM10,000 or less".

[51] Likewise, this interpretation would prohibit D from appealing.

[52] In the third scenario, where judgment is granted for an amount that is more than RM10,000 – if "the amount in dispute or the value of the subject matter" is related to the amount claimed in the statement of claim – then the s. 28(1)(a) monetary limit would not prohibit P's appeal to the High Court, because the amount claimed in the statement of claim is, at the outset, more than RM10,000 *ie*, not "RM10,000 or less".

[53] And D can also appeal. The s. 28(1)(a) monetary limit would not prohibit D from appealing, similarly since the amount claimed in the statement of claim is more than RM10,000.

[54] D can appeal for the claim to be dismissed entirely or for an amount that is lower than the amount that the Sessions Court granted.

[55] On the other hand – if "the amount in dispute or the value of the subject matter" is related to the judgment sum – the s. 28(1)(a) monetary limit would not prohibit P's appeal to the High Court, since the judgment sum is more than RM10,000 *ie*, not "RM10,000 or less".

[56] Again, D can also appeal. The s. 28(1)(a) monetary limit would not prohibit D from appealing – for the same reason.

[57] This analysis discloses that if "the amount in dispute or the value of the subject matter" is interpreted to be related to the amount claimed in the statement of claim rather than the judgment sum, the s. 28(1)(a) monetary limit is ineffective to prohibit or reduce the number of appeals from the subordinate courts to the High Court.

[58] Instead, for all three scenarios – if "the amount in dispute or the value of the subject matter" is interpreted to be related to the amount claimed in the statement of claim – the s. 28(1)(a) monetary limit appears to have enabled more appeals, since both P and D can appeal against the judgment.

[59] The interpretation that "the amount in dispute or the value of the subject matter" is related to the amount claimed brings about outcomes that are contrary to the purpose of the s. 28(1)(a) monetary limit – which is to prohibit or reduce appeals from the subordinate courts to the High Court.

[60] I therefore find that the meaning of the words "the amount in dispute or the value of the subject matter" – is related to the eventual judgment sum granted by the subordinate courts (the decision appealed from), and not related to the amount claimed in the statement of claim.

[61] And so, for these reasons, I find that since the judgment sum of RM3,050 is "RM10,000 or less", this appeal is incompetent and is of no effect – unless P can satisfy this court that the appeal is on a question of law.

This Appeal Is Not On A Question Of Law

[62] What remains to be determined is whether P's appeal is on a "question of law"?

[63] To see whether P has appealed against the Sessions Court judgment on a question of law, I refer to P's notice of appeal (NOA) and his memorandum of appeal (MOA). P's NOA does not state that P is appealing on a question of law, nor does it pose a question of law for the determination of the appeal.

[64] As for his MOA, P's initial MOA contains eight grounds. I find that these eight grounds are all questions of fact, or questions relating to the evidence that purport to prove the facts. These eight grounds are not questions of law.

[65] Subsequently, P amends his MOA to include a ninth ground of appeal. I similarly find that this ninth ground of appeal is not a question of law.

[66] P's ninth ground of appeal is that the Sessions Court erred in law when the learned judge failed to consider the certificate of medical attendance dated 19 August 2013 (marked as ID3), which was handwritten by Dr Khor Hui Ying, as an exhibit. P argues that the Sessions Court Judge should have accepted and considered this certificate as part of the body of evidence.

[67] I find that whether the Sessions Court Judge should have accepted and considered the certificate is inconsequential because Dr Khor Hui Ying did not take the stand to testify about its contents. It is obvious to me that this ground is a question of fact. It is a question that relates to the evidence that purports to prove a particular fact. It is not a question of law.

[68] In summary, I find that P has not satisfied the exception to the s. 28(1)(a) prohibition. P's appeal is not on a question of law.

Conclusion

[69] Having considered the grounds of the learned justices in the case law authorities referred to above, and for the reasons that I have alluded to, I am of the view that the meaning of the words "the amount in dispute or the value of the subject matter" in s. 28(1)(a) should be construed to be related to the eventual judgment sum granted by the subordinate courts.

[70] This interpretation of the meaning of the words "the amount in dispute or the value of the subject matter" to be related to the eventual judgment sum granted, and not the amount claimed in the statement of claim, has the following effect – as there is a specific judgment sum granted (or the value

of the judgment can be ascertained) – it gives clarity to the litigants about their right to appeal. And by that clarity, it will have the effect of prohibiting and reducing the number of appeals from the subordinate courts to the High Court. The parties will be more circumspect and practical when they consider appealing against a judgment sum that is "RM10,000 or less".

[71] And since this appeal is not on a question of law, I find that this appeal is prohibited by s. 28(1)(a) of the CJA, and is rendered incompetent.

[72] I allow D's preliminary objection and strike out P's appeal with costs of RM12,000 to be paid by P to D.